

THE POLYNESIAN.

PUBLISHED WEEKLY, AT HONOLULU, OAHU, MATUAKAN ISLANDS.

J. J. JARVES, Editor.

SATURDAY, SEPTEMBER 25, 1841.

Vol. 2.—No. 16.

POETRY.

THE MISSIONARIES' FAREWELL.

Land where the bones of our fathers are sleeping,
Land where our dear ones and fond ones are weeping,
Land where the light of Jehovah is shining,
We leave thee lamenting, but not with repining.

Land of our fathers, in grief we forsake thee,
Land of our friends, may Jehovah protect thee,
Land of the church, may the light shine around thee,
Nor darkness, nor trouble, nor sorrow confound thee.

God is thy God; thou shalt walk in His brightness;
Gird thee with joy, let thy robes be of whiteness:
God is thy God! let thy hills shout for gladness;
But ah! we must leave thee—we leave thee in sadness.

Dark is our path o'er the dark rolling ocean:
Dark are our hearts; but the fire of devotion
Kindles within;—and a far distant nation
Shall learn from our lips the glad song of salvation.

Hail to the land of our toils and our sorrows!
Land of our rest!—when a few more to-morrows
Pass o'er our heads, we will seek our cold pillows,
And rest in our graves, far away o'er the billows.

Documents accompanying the President's Message.

FROM THE DEPARTMENT OF STATE.

MR. FOX TO MR. WEBSTER.

WASHINGTON, March 12, 1841.

The undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, is instructed by his Government to make the following official communication to the Government of the United States.

Her Majesty's Government have had under their consideration the correspondence which took place at Washington in December last, between the United States Secretary of State, Mr Forsyth, and the undersigned, comprising two official letters from the undersigned to Mr Forsyth, dated the 13th and 29th of December, and two official letters from Mr Forsyth to the undersigned, dated the 26th and 30th of the same month, upon the subject of the arrest and imprisonment of Mr Alexander McLeod, of Upper Canada, by the authorities of the State of New York, upon a pretended charge of arson and murder as having been engaged in the capture and destruction of the steamboat "Caroline," on the 29th of December, 1837.

The undersigned is directed in the first place to make known to the Government of the United States, that Her Majesty's Government entirely approve of the course pursued by the undersigned in that correspondence, and of the language adopted by him in the official letters above mentioned.

And the undersigned is now instructed again to demand from the Government of the United States, formally, in the name of the British Government, the immediate release of Mr Alexander McLeod.

The grounds upon which the British Government make this demand upon the Government of the United States are these: That the transaction on account of which Mr McLeod has been arrested and is to be put upon his trial was a transaction of a public character, planned and executed by persons duly empowered by Her Majesty's Colonial Authorities to take any steps and to do any acts which might be necessary for the defence of Her Majesty's territories, and for the protection of Her Majesty's subjects; and that consequently those subjects of Her Majesty who engaged in that transaction were performing an act of public duty for which they cannot be made personally and individually answerable to the laws and tribunals of any foreign country.

The transaction in question may have been, as Her Majesty's Government are of opinion that it was, a justifiable employment of force for the purpose of defending the British territory from the unprovoked attack of a band of British rebels and American pirates, who, having been permitted to arm and organize themselves within the territory of the United States, had actually invaded and occupied a portion of the territory of Her Majesty, or it may have been, as alleged by Mr Forsyth in his note to the undersigned of the 26th of December, "a most unjustifiable invasion in time of peace of the territory of the United States." But this is a question essentially of a political and international kind, which can be discussed and settled only between the two Governments, and which the courts of justice of the State of New York cannot by possibility have any means of judging or any right of deciding.

It would be contrary to the universal practice of civilized nations to fix individual responsibility upon persons who, with the sanction or by the orders of the constituted authorities of a State, engaged in military or naval enterprises in their country's cause; and it is obvious that the introduction of such a principle would aggravate beyond measure the miseries, and would frightfully increase the demoralizing effects of war, by mixing up with national exasperation the ferocity of personal passions, and the cruelty and bitterness of individual revenge.

Her Majesty's Government cannot believe that the Government of the United States can really intend to set as an example so fraught with evil to the community of nations, and the direct tendency of which must be to bring back into the practice of modern war atrocities which civilization and christianity have long since banished.

Neither can Her Majesty's Government admit for a moment the validity of the doctrine advanced by Mr Forsyth, that the Federal Government of the United States has no power to interfere in the matter in question, and that the decision thereof must rest solely and entirely with the State of New York.

With the particulars of the internal compact which may exist between the several states that compose the Union, foreign Powers have nothing to do: the relations of foreign Powers are with the aggregate Union: that Union is to them represented by the Federal Government; and of that Union the Federal Government is to them the only organ. Therefore when a foreign Power has redress to demand for a wrong done to it by any State of the Union it is to the Federal Government, and not to the separate State, that such Power must look for re-

dress for that wrong. And such foreign power cannot admit the plea that the separate State is an independent body, over which the Federal Government has no control. It is obvious that such a doctrine, if admitted, would at once go to a dissolution of the Union as far as its relations with foreign Powers are concerned; and foreign Powers in such case, instead of accrediting diplomatic agents to the Federal Government, would send such agents not to that Government, but to the Government of each separate State; and would make their relations of peace and war with each State depend upon the result of their separate intercourse with such State, without reference to the relations they might have with the rest.

Her Majesty's Government apprehend that the above is not the conclusion at which the Government of the United States intend to arrive; yet such is the conclusion to which the arguments that have been advanced by Mr Forsyth necessarily lead.

But be that as it may, Her Majesty's Government formally demand, upon the grounds already stated, the immediate release of Mr McLeod; and Her Majesty's Government entreat the President of the United States to take into his most deliberate consideration the serious nature of the consequences which must ensue from a rejection of this demand.

The United States Government will perceive that in demanding Mr McLeod's release, Her Majesty's Government argue upon the assumption that he was one of the persons engaged in the capture of the steamboat "Caroline;" but Her Majesty's Government have the strongest reasons for being convinced that Mr McLeod was not in fact engaged in that transaction; and the undersigned is hereupon instructed to say that although the circumstance itself makes no difference in the political and international question at issue; and although Her Majesty's Government do not demand Mr McLeod's release upon the ground that he was not concerned in the capture of the "Caroline," but upon the ground that the capture of the "Caroline" was a transaction of a public character for which the persons engaged in it cannot incur private and personal responsibility; yet the Government of the United States must not disguise from themselves that the fact that Mr McLeod was not engaged in the transaction must necessarily tend greatly to inflame that national resentment which any harm that shall be suffered by Mr McLeod at the hands of the authorities of the State of New York will infallibly excite throughout the whole of the British empire.

The undersigned, in addressing the present official communication, by order of his Government, to Mr WEBSTER, Secretary of State of the United States, has the honor to offer to him the assurance of his distinguished consideration.

H. S. FOX.

The Hon. DANIEL WEBSTER, &c. &c.

MR. WEBSTER TO MR. FOX.

DEPARTMENT OF STATE.

WASHINGTON, April 24, 1841.

The undersigned, Secretary of State of the United States, has the honor to inform Mr Fox, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty, that his note of the 12th of March was received and laid before the President.

Circumstances well known to Mr Fox, have necessarily delayed, for some days, the consideration of that note.

The undersigned has the honor now to say that it has been fully considered, and that he has been directed by the President to address to Mr Fox the following reply:

Mr Fox informs the Government of the United States that he is instructed to make known to it that the Government of Her Majesty entirely approve the course pursued by him in his correspondence with Mr Forsyth in December last, and the language adopted by him on that occasion; and that that Government have instructed him "again to demand from the Government of the United States, formally, in the name of the British Government, the immediate release of Mr Alexander McLeod;" that "the grounds upon which the British Government make this demand upon the Government of the United States are these: That the transaction on account of which Mr McLeod has been arrested and is to be put upon his trial was a transaction of a public character, planned and executed by persons duly empowered by Her Majesty's colonial authorities to take any steps and to do any acts which might be necessary for the defence of Her Majesty's territories, and for the protection of her Majesty's subjects, and that consequently those subjects of Her Majesty who engaged in that transaction were performing an act of public duty, for which they cannot be made personally and individually answerable to the laws and tribunals of any foreign country."

The President is not certain that he understands precisely the meaning intended by Her Majesty's Government to be conveyed by the foregoing instruction.

This doubt has occasioned with the President some hesitation, but he inclines to take it for granted that the main purpose of the instruction was to cause it to be signified to the Government of the United States that the attack on the steamboat "Caroline" was an act of public force, done by the British colonial authorities, and fully recognized by the Queen's Government at home, and that consequently no individual concerned in that transaction can, according to the just principle of the laws of nations, be held personally answerable in the ordinary courts of law as for a private offence; and that upon this avowal of Her Majesty's Government, Alexander McLeod, now imprisoned on an indictment for murder alleged to have been committed in that attack, ought to be released by such proceedings as are usual and are suitable to the case.

The President adopts the conclusion that nothing more than this could have been intended to be expressed, from the consideration that Her Majesty's Government must be fully aware that in the United States as in England, persons confined under judicial process can be released from that confinement only by judicial process. In neither country, as the undersigned supposes, can the arm of the Executive power interfere, directly or forcibly, to release or deliver the prisoner. His discharge must be sought in a manner conformable to the principles of law and the proceedings of the courts of judicature. If an indictment, like that which has been found against Alex. McLeod, and under circumstances like those which belong to his case, were pending against an individual in one of the courts of England, there is no doubt that the law officers of the Crown might enter a *nolle prosequi*, or that the prisoner might cause himself to be brought up on *habeas corpus*.